for purposes of applying this section. Whether a service provider qualifies for the limitation on liability in any one of those subsections shall be based solely on the criteria in that subsection, and shall not affect a determination of whether that service provider qualifies for the limitations on liability under any other such subsection.

(Added Pub. L. 105–304, title II, § 202(a), Oct. 28, 1998, 112 Stat. 2877; amended Pub. L. 106–44, § 1(d), Aug. 5, 1999, 113 Stat. 222.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (h)(6), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

CODIFICATION

Another section 512 was renumbered section 513 of this title.

AMENDMENTS

1999—Subsec. (e). Pub. L. 106–44, § 1(d)(1)(A), substituted ''Limitation on Liability of Nonprofit Educational Institutions'' for ''Limitation on liability of nonprofit educational institutions'' in heading.

Subsec. (e)(2). Pub. L. 106–44, § 1(d)(1)(B), struck out par. heading ''Injunctions''.

Subsec. (j)(3). Pub. L. 106–44, § 1(d)(2), substituted ''Notice and ex parte orders'' for ''Notice and Ex Parte Orders'' in heading.

EFFECTIVE DATE

Pub. L. 105–304, title II, § 203, Oct. 28, 1998, 112 Stat. 2886, provided that: ''This title [enacting this section and provisions set out as a note under section 101 of this title] and the amendments made by this title shall take effect on the date of the enactment of this Act [Oct. 28, 1998].''

§ 513. Determination of reasonable license fees for individual proprietors

In the case of any performing rights society subject to a consent decree which provides for the determination of reasonable license rates or fees to be charged by the performing rights society, notwithstanding the provisions of that consent decree, an individual proprietor who owns or operates fewer than 7 non-publicly traded establishments in which nondramatic musical works are performed publicly and who claims that any license agreement offered by that performing rights society is unreasonable in its license rate or fee as to that individual proprietor, shall be entitled to determination of a reasonable license rate or fee as follows:

(1) The individual proprietor may commence such proceeding for determination of a reasonable license rate or fee by filing an application in the applicable district court under paragraph (2) that a rate disagreement exists and by serving a copy of the application on the performing rights society. Such proceeding shall commence in the applicable district court within 90 days after the service of such copy, except that such 90-day requirement shall be subject to the administrative requirements of the court.

(2) The proceeding under paragraph (1) shall be held, at the individual proprietor's election, in the judicial district of the district court with jurisdiction over the applicable consent decree or in that place of holding court of a district court that is the seat of the Federal circuit (other than the Court of Appeals for the Federal Circuit) in which the proprietor's establishment is located.

(3) Such proceeding shall be held before the judge of the court with jurisdiction over the consent decree governing the performing rights society. At the discretion of the court, the proceeding shall be held before a special master or magistrate judge appointed by such judge. Should that consent decree provide for the appointment of an advisor or advisors to the court for any purpose, any such advisor shall be the special master so named by the court.

(4) In any such proceeding, the industry rate shall be presumed to have been reasonable at the time it was agreed to or determined by the court. Such presumption shall in no way affect a determination of whether the rate is being correctly applied to the individual proprietor.

(5) Pending the completion of such proceeding, the individual proprietor shall have the right to perform publicly the copyrighted musical compositions in the repertoire of the performing rights society by paying an interim license rate or fee into an interest bearing escrow account with the clerk of the court, subject to retroactive adjustment when a final rate or fee has been determined, in an amount equal to the industry rate, or, in the absence of an industry rate, the amount of the most recent license rate or fee agreed to by the parties.

(6) Any decision rendered in such proceeding by a special master or magistrate judge named under paragraph (3) shall be reviewed by the judge of the court with jurisdiction over the consent decree governing the performing rights society. Such proceeding, including such review, shall be concluded within 6 months after its commencement.

(7) Any such final determination shall be binding only as to the individual proprietor commencing the proceeding, and shall not be applicable to any other proprietor or any other performing rights society, and the performing rights society shall be relieved of any obligation of nondiscrimination among similarly situated music users that may be imposed by the consent decree governing its operations.

(8) An individual proprietor may not bring more than one proceeding provided for in this section for the determination of a reasonable license rate or fee under any license agreement with respect to any one performing rights society.

(9) For purposes of this section, the term ''industry rate'' means the license fee a performing rights society has agreed to with, or which has been determined by the court for, a significant segment of the music user industry to which the individual proprietor belongs.

(Added Pub. L. 105–298, title II, § 203(a), Oct. 27, 1998, 112 Stat. 2831, § 512; renumbered § 513, Pub. L. 106–44, § 1(c)(1), Aug. 5, 1999, 113 Stat. 221.)

AMENDMENTS

1999—Pub. L. 106–44 renumbered section 512 of this title as this section.

EFFECTIVE DATE

Section effective 90 days after Oct. 27, 1998, see section 207 of Pub. L. 105–298, set out as an Effective Date of 1998 Amendments note under section 101 of this title.

CHAPTER 6—MANUFACTURING REQUIREMENTS AND IMPORTATION

Sec.
601. Manufacture, importation, and public distribution of certain copies.
602. Infringing importation of copies or phonorecords.
603. Importation prohibitions: Enforcement and disposition of excluded articles.

§ 601. Manufacture, importation, and public distribution of certain copies

(a) Prior to July 1, 1986, and except as provided by subsection (b), the importation into or public distribution in the United States of copies of a work consisting preponderantly of nondramatic literary material that is in the English language and is protected under this title is prohibited unless the portions consisting of such material have been manufactured in the United States or Canada.

(b) The provisions of subsection (a) do not apply—

(1) where, on the date when importation is sought or public distribution in the United States is made, the author of any substantial part of such material is neither a national nor a domiciliary of the United States or, if such author is a national of the United States, he or she has been domiciled outside the United States for a continuous period of at least one year immediately preceding that date; in the case of a work made for hire, the exemption provided by this clause does not apply unless a substantial part of the work was prepared for an employer or other person who is not a national or domiciliary of the United States or a domestic corporation or enterprise;

(2) where the United States Customs Service is presented with an import statement issued under the seal of the Copyright Office, in which case a total of no more than two thousand copies of any one such work shall be allowed entry; the import statement shall be issued upon request to the copyright owner or to a person designated by such owner at the time of registration for the work under section 408 or at any time thereafter;

(3) where importation is sought under the authority or for the use, other than in schools, of the Government of the United States or of any State or political subdivision of a State;

(4) where importation, for use and not for sale, is sought—

(A) by any person with respect to no more than one copy of any work at any one time;

(B) by any person arriving from outside the United States, with respect to copies forming part of such person's personal baggage; or

(C) by an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to copies intended to form a part of its library;

(5) where the copies are reproduced in raised characters for the use of the blind; or

(6) where, in addition to copies imported under clauses (3) and (4) of this subsection, no more than two thousand copies of any one such work, which have not been manufactured in the United States or Canada, are publicly distributed in the United States; or

(7) where, on the date when importation is sought or public distribution in the United States is made—

(A) the author of any substantial part of such material is an individual and receives compensation for the transfer or license of the right to distribute the work in the United States; and

(B) the first publication of the work has previously taken place outside the United States under a transfer or license granted by such author to a transferee or licensee who was not a national or domiciliary of the United States or a domestic corporation or enterprise; and

(C) there has been no publication of an authorized edition of the work of which the copies were manufactured in the United States; and

(D) the copies were reproduced under a transfer or license granted by such author or by the transferee or licensee of the right of first publication as mentioned in subclause (B), and the transferee or the licensee of the right of reproduction was not a national or domiciliary of the United States or a domestic corporation or enterprise.

(c) The requirement of this section that copies be manufactured in the United States or Canada is satisfied if—

(1) in the case where the copies are printed directly from type that has been set, or directly from plates made from such type, the setting of the type and the making of the plates have been performed in the United States or Canada; or

(2) in the case where the making of plates by a lithographic or photoengraving process is a final or intermediate step preceding the printing of the copies, the making of the plates has been performed in the United States or Canada; and

(3) in any case, the printing or other final process of producing multiple copies and any binding of the copies have been performed in the United States or Canada.

(d) Importation or public distribution of copies in violation of this section does not invalidate protection for a work under this title. However, in any civil action or criminal proceeding for infringement of the exclusive rights to reproduce and distribute copies of the work, the infringer has a complete defense with respect to all of the nondramatic literary material comprised in the work and any other parts of the work in which the exclusive rights to reproduce and distribute copies are owned by the same person who owns such exclusive rights in the nondramatic literary material, if the infringer proves—

(1) that copies of the work have been imported into or publicly distributed in the United States in violation of this section by or with the authority of the owner of such exclusive rights; and

(2) that the infringing copies were manufactured in the United States or Canada in accordance with the provisions of subsection (c); and

(3) that the infringement was commenced before the effective date of registration for an authorized edition of the work, the copies of which have been manufactured in the United States or Canada in accordance with the provisions of subsection (c).

(e) In any action for infringement of the exclusive rights to reproduce and distribute copies of a work containing material required by this section to be manufactured in the United States or Canada, the copyright owner shall set forth in the complaint the names of the persons or organizations who performed the processes specified by subsection (c) with respect to that material, and the places where those processes were performed.

(Pub. L. 94–553, title I, § 101, Oct. 19, 1976, 90 Stat. 2588; Pub. L. 97–215, July 13, 1982, 96 Stat. 178; Pub. L. 105–80, § 12(a)(15), (16), Nov. 13, 1997, 111 Stat. 1535.)

HISTORICAL AND REVISION NOTES

HOUSE REPORT NO. 94–1476

The Requirement in General. A chronic problem in efforts to revise the copyright statute for the past 85 years has been the need to reconcile the interests of the American printing industry with those of authors and other copyright owners. The scope and impact of the ''manufacturing clause,'' which came into the copyright law as a compromise in 1891, have been gradually narrowed by successive amendments.

Under the present statute, with many exceptions and qualifications, a book or periodical in the English language must be manufactured in the United States in order to receive full copyright protection. Failure to comply with any of the complicated requirements can result in complete loss of protection. Today the main effects of the manufacturing requirements are on works by American authors.

The first and most important question here is whether the manufacturing requirement should be retained in the statute in any form. Beginning in 1965, serious efforts at compromising the issue were made by various interests aimed at substantially narrowing the scope of the requirement, and these efforts produced the version of section 601 adopted by the Senate when it passed S. 22.

The principal arguments for elimination of the manufacturing requirement can be summarized as follows:

1. The manufacturing clause originated as a response to a historical situation that no longer exists. Its requirements have gradually been relaxed over the years, and the results of the 1954 amendment, which partially eliminated it, have borne out predictions of positive economic benefits for all concerned, including printers, printing trades union members, and the public.

2. The provision places unjustified burdens on the author, who is treated as a hostage. It hurts the author most where it benefits the manufacturer least: in cases where the author must publish abroad or not at all. It unfairly discriminates between American authors and other authors, and between authors of books and authors of other works.

3. The manufacturing clause violates the basic principle that an author's rights should not be dependent on the circumstances of manufacture. Complete repeal would substantially reduce friction with foreign authors and publishers, increase opportunities for American authors to have their works published, encourage international publishing ventures, and eliminate the tangle of procedural requirements now burdening authors, publishers, the Copyright Office, and the United States Customs Service.

4. Studies prove that the economic fears of the printing industry and unions are unfounded. The vast bulk of American titles are completely manufactured in the United States, and U.S. exports of printed matter are much greater than imports. The American book manufacturing industry is healthy and growing, to the extent that it cannot keep pace with its orders. There are increasing advantages to domestic manufacture because of improved technology, and because of the delays, inconveniences, and other disadvantages of foreign manufacture. Even with repeal, foreign manufacturing would be confined to small editions and scholarly works, some of which could not be published otherwise.

The following were the principal arguments in favor of retaining some kind of manufacturing restriction.

1. The historical reasons for the manufacturing clause were valid originally and still are. It is unrealistic to speak of this as a ''free trade'' issue or of tariffs as offering any solution, since book tariffs have been removed entirely under the Florence Agreement. The manufacturing requirement remains a reasonable and justifiable condition to the granting of a monopoly. There is no problem of international comity, since only works by American authors are affected by section 601. Foreign countries have many kinds of import barriers, currency controls, and similar restrictive devices comparable to a manufacturing requirement.

2. The differentials between U.S. and foreign wage rates in book production are extremely broad and are not diminishing: Congress should not create a condition whereby work can be done under the most degraded working conditions in the world, be given free entry, and thus exclude American manufacturers from the market. The manufacturing clause has been responsible for a strong and enduring industry. Repeal could destroy small businesses, bring chaos to the industry, and catch manufacturers, whose labor costs and breakeven points are extremely high, in a cost-price squeeze at a time when expenditures for new equipment have reduced profits to a minimum.

3. The high ratio of exports to imports could change very quickly without a manufacturing requirement. Repeal would add to the balance-of-payments deficit since foreign publishers never manufacture here. The U.S. publishing industry has large investments abroad, and attacks on the manufacturing clause by foreign publishers, show a keen anticipation for new business. The book publishers arguments that repeal would have no real economic impact are contradicted by their arguments that the manufacturing requirement is stifling scholarship and crippling publishing; their own figures show a 250 percent rise in English-language book imports in 10 years.

After carefully weighing these arguments, the Committee concludes that there is no justification on principle for a manufacturing requirement in the copyright statute, and although there may have been some economic justification for it at one time, that justification no longer exists. While it is true that section 601 represents a substantial liberalization and that it would remove many of the inequities of the present manufacturing requirement, the real issue is whether retention of a provision of this sort in a copyright law can continue to be justified. The Committee believes it cannot.

The Committee recognizes that immediate repeal of the manufacturing requirement might have damaging effects in some segments of the U.S. printing industry. It has therefore amended section 601 to retain the liberalized requirement through the end of 1980, but to repeal it definitively as of January 1, 1981. It also adopted an amendment further ameliorating the effect of this temporary legislation on individual American authors.

In view of this decision, the detailed discussion of section 601 that follows will cease to be of significance after 1980.

Works Subject to the Manufacturing Requirement. The scope of the manufacturing requirement, as set out

in subsections (a) and (b) of section 601, is considerably more limited than that of present law. The requirements apply to ''a work consisting preponderantly of nondramatic literary material that is in the English language and is protected under this title,'' and would thus not extend to: dramatic, musical, pictorial, or graphic works; foreign-language, bilingual, or multilingual works; public domain material; or works consisting preponderantly of material that is not subject to the manufacturing requirement.

The term ''literary material'' does not connote any criterion of literary merit or qualitative value; it includes catalogs, directories and ''similar materials.''

A work containing ''nondramatic literary material that is in the English language and is protected under this title,'' and also containing dramatic, musical, pictorial, graphic, foreign-language, public domain, or other material that is not subject to the manufacturing requirement, or any combination of these, is not considered to consist ''preponderantly'' of the copyright-protected nondramatic English-language literary material unless such material exceeds the exempted material in importance. Thus, where the literary material in a work consists merely of a foreword or preface, and captions, headings, or brief descriptions or explanations of pictorial, graphic or other nonliterary material, the manufacturing requirement does not apply to the work in whole or in part. In such case, the non-literary material clearly exceeds the literary material in importance, and the entire work is free of the manufacturing requirement.

On the other hand, if the copyright-protected nondramatic English-language literary material in the work exceeds the other material in importance, then the manufacturing requirement applies. For example, a work containing pictorial, graphic, or other non-literary material is subject to the manufacturing requirement if the non-literary material merely illustrates a textual narrative or exposition, regardless of the relative amount of space occupied by each kind of material. In such a case, the narrative or exposition comprising the literary material plainly exceeds in importance the non-literary material in the work. However, even though such a work is subject to the manufacturing requirement, only the portions consisting of copyrighted non-dramatic literary material in English are required to be manufactured in the United States or Canada. The illustrations may be manufactured elsewhere without affecting their copyright status.

Under section 601(b)(1) works by American nationals domiciled abroad for at least a year would be exempted. The manufacturing requirement would generally apply only to works by American authors domiciled here, and then only if none of the co-authors of the work are foreign.

In order to make clear the application of the foreign-author exemption to ''works made for hire''—of which the employer or other person for whom the work was prepared is considered the ''author'' for copyright purposes—section 601(b)(1) provides that the exemption does not apply unless a substantial part of the work was prepared for an employer or other person who is not a national or domiciliary of the United States, or a domestic corporation or enterprise. The reference to ''a domestic corporation or enterprise'' is intended to include a subsidiary formed by the domestic corporation or enterprise primarily for the purpose of obtaining the exemption.

The provision adopts a proposal put forward by various segments of both the United States and the Canadian printing industries, recommending an exemption for copies manufactured in Canada. Since wage standards in Canada are substantially comparable to those in the United States, the arguments for equal treatment under the manufacturing clause are persuasive.

Limitations on Importation and Distribution of Copies Manufactured Abroad. The basic purpose of the temporary manufacturing requirements of section 601, like that of the present manufacturing clause, is to induce the manufacture of an edition in the United States if more than a certain limited number of copies are to be distributed in this country. Subsection (a) therefore provides in general that ''the importation into or public distribution in the United States'' of copies not complying with the manufacturing clause is prohibited. Subsection (b) then sets out the exceptions to this prohibition, and clause (2) of that subsection fixes the importation limit at 2,000 copies.

Additional exceptions to the copies affected by the manufacturing requirements are set out in clauses (3) through (7) of subsection (b). Clause (3) permits importation of copies for governmental use, other than in schools, by the United States or by ''any State or political subdivision of a State.'' Clause (4) allows importation for personal use of ''no more than one copy of any work at any one time,'' and also exempts copies in the baggage of persons arriving from abroad and copies intended for the library collection of nonprofit scholarly, educational, or religious organizations. Braille copies are completely exempted under clause (5), and clause (6) permits the public distribution in the United States of copies allowed entry by the other clauses of that subsection. Clause (7) is a new exception, covering cases in which an individual American author has, through choice or necessity, arranged for publication of his work by a foreign rather than a domestic publisher.

What Constitutes "Manufacture in the United States" or Canada. A difficult problem in the manufacturing clause controversy involves the restrictions to be imposed on foreign typesetting or composition. Under what they regard as a loophole in the present law, a number of publishers have for years been having their manuscripts set in type abroad, importing ''reproduction proofs,'' and then printing their books from offset plates ''by lithographic process * * * wholly performed in the United States.'' The language of the statute on this point is ambiguous and, although the publishers' practice has received some support from the Copyright Office, there is a question as to whether or not it violates the manufacturing requirements.

In general the book publishers have opposed any definition of domestic manufacture that would close the ''repro proof'' loophole or that would interfere with their use of new techniques of book production, including use of imported computer tapes for composition here. This problem was the focal point of a compromise agreement between representatives of the book publishers and authors on the one side and of typographical firms and printing trades unions on the other, and the bill embodies this compromise as a reasonable solution to the problem.

Under subsection (c) the manufacturing requirement is confined to the following processes: (1) Typesetting and platemaking, ''where the copies are printed directly from type that has been set, or directly from plates made from such type''; (2) the making of plates, ''where the making of plates by a lithographic or photoengraving process is a final or intermediate step preceding the printing of the copies''; and (3) in all cases, the ''printing or other final process of producing multiple copies and any binding of the copies.'' Under the subsection there would be nothing to prevent the importation of reproduction proofs, however they were prepared, as long as the plates from which the copies are printed are made here and are not themselves imported. Similarly, the importation of computer tapes from which plates can be prepared here would be permitted. However, regardless of the process involved, the actual duplication of multiple copies, together with any binding, are required to be done in the United States or Canada.

Effect of Noncompliance with Manufacturing Requirement. Subsection (d) of section 601 makes clear that compliance with the manufacturing requirements no longer constitutes a condition of copyright with respect to reproduction and the distribution of copies. The bill does away with the special ''ad interim'' time limits and registration requirements of the present law and, even if copies are imported or distributed in violation of the section, there would be no effect on the

copyright owner's right to make and distribute phonorecords of the work, to make derivative works including dramatizations and motion pictures, and to perform or display the work publicly. Even the rights to reproduce and distribute copies are not lost in cases of violation, although they are limited as against certain infringers.

Subsection (d) provides a complete defense in any civil action or criminal proceeding for infringement of the exclusive rights of reproduction or distribution of copies where, under certain circumstances, the defendant proves violation of the manufacturing requirements. The defense is limited to infringement of the ''nondramatic literary material comprised in the work and any other parts of the work in which the exclusive rights to reproduce and distribute copies are owned by the same person who owns such exclusive rights in the nondramatic literary material.'' This means, for example, that the owner of copyright in photographs or illustrations published in a book copyrighted by someone else who would not be deprived of rights against an infringer who proves that there had been a violation of section 601.

Section 601(d) places the full burden for proving violation on the infringer. The infringer's defense must be based on proof that: (1) copies in violation of section 601 have been imported or publicly distributed in the United States ''by or with the authority'' of the copyright owner; and (2) that the infringing copies complied with the manufacturing requirements; and (3) that the infringement began before an authorized edition complying with the requirements had been registered. The third of these clauses of subsection (d) means, in effect, that a copyright owner can reinstate full exclusive rights by manufacturing an edition in the United States and making registration for it.

Subsection (e) requires the plaintiff in any infringement action involving publishing rights in material subject to the manufacturing clause to identify the manufacturers of the copies in his complaint. Correspondingly, section 409 would require the manufacturers to be identified in applications for registration covering published works subject to the requirements of section 601.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–80, §12(a)(15), substituted ''nondramatic'' for ''nondramtic''.

Subsec. (b)(1). Pub. L. 105–80, §12(a)(16), substituted ''substantial'' for ''subsustantial'' before ''part of the work''.

1982—Subsec. (a). Pub. L. 97–215 substituted ''1986'' for ''1982''.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 602. Infringing importation of copies or phonorecords

(a) Importation into the United States, without the authority of the owner of copyright under this title, of copies or phonorecords of a work that have been acquired outside the United States is an infringement of the exclusive right to distribute copies or phonorecords under section 106, actionable under section 501. This subsection does not apply to—

(1) importation of copies or phonorecords under the authority or for the use of the Government of the United States or of any State or political subdivision of a State, but not including copies or phonorecords for use in schools, or copies of any audiovisual work imported for purposes other than archival use;

(2) importation, for the private use of the importer and not for distribution, by any person with respect to no more than one copy or phonorecord of any one work at any one time, or by any person arriving from outside the United States with respect to copies or phonorecords forming part of such person's personal baggage; or

(3) importation by or for an organization operated for scholarly, educational, or religious purposes and not for private gain, with respect to no more than one copy of an audiovisual work solely for its archival purposes, and no more than five copies or phonorecords of any other work for its library lending or archival purposes, unless the importation of such copies or phonorecords is part of an activity consisting of systematic reproduction or distribution, engaged in by such organization in violation of the provisions of section 108(g)(2).

(b) In a case where the making of the copies or phonorecords would have constituted an infringement of copyright if this title had been applicable, their importation is prohibited. In a case where the copies or phonorecords were lawfully made, the United States Customs Service has no authority to prevent their importation unless the provisions of section 601 are applicable. In either case, the Secretary of the Treasury is authorized to prescribe, by regulation, a procedure under which any person claiming an interest in the copyright in a particular work may, upon payment of a specified fee, be entitled to notification by the Customs Service of the importation of articles that appear to be copies or phonorecords of the work.

(Pub. L. 94–553, title I, §101, Oct. 19, 1976, 90 Stat. 2589.)

HISTORICAL AND REVISION NOTES

HOUSE REPORT NO. 94–1476

Scope of the Section. Section 602, which has nothing to do with the manufacturing requirements of section 601, deals with two separate situations: importation of ''piratical'' articles (that is, copies or phonorecords made without any authorization of the copyright owner), and unauthorized importation of copies or phonorecords that were lawfully made. The general approach of section 602 is to make unauthorized importation an act of infringement in both cases, but to permit the United States Customs Service to prohibit importation only of ''piratical'' articles.

Section 602(a) first states the general rule that unauthorized importation is an infringement merely if the copies or phonorecords ''have been acquired outside the United States'', but then enumerates three specific exceptions: (1) importation under the authority or for the use of a governmental body, but not including material for use in schools or copies of an audiovisual work imported for any purpose other than archival use; (2) importation for the private use of the importer of no more than one copy or phonorecord of a work at a time, or of articles in the personal baggage of travelers from abroad; or (3) importation by nonprofit organizations ''operated for scholarly, educational, or religious purposes'' of ''no more than one copy of an audiovisual work solely for archival purposes, and no more than